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OCT 11 2006

In the Claims:

35 USC Section 103:

The Examiner has rejected claims 1-4, 7-10, 12-14 and 16-18 as being unpatentable over applicant's admitted prior art in view of Iijima et al. (US6,330,743). The Examiner has also rejected claims 5-6 and 15 as being obvious in view of Iijima in view of Otsuka (US 2001/0005297).

The Examiner asserts that claim 1 as it was previously written does not recite a particular order to when CMP or ion milling occurs relative to each other. The Applicant has amended claim 1 to recite the unique and novel combination of CMP and ion milling, wherein a CMP is first performed to remove a portion of the dielectric layer and then an ion mill is performed to remove a further portion of the dielectric layer, the ion milling being performed sufficiently to expose the magnetic layer. There is no teaching or suggestion in the prior art to perform such a two step process in the order claimed in amended claim 1. Claim 1 as amended is therefore patentable over the prior art.

The Examiner has quoted (at the bottom of page 4 of the Office Action) language from Iijima which states,

"[a] portion of the first magnetic layer exposed in the recess is etched such that the recess is dug down over into the first magnetic layer over a part of a whole thickness of the first magnetic layer, and said etching is performed by an ion beam etching such as ion milling".

Claim 1 as amended recites that the ion milling is specifically performed to remove the dielectric material and specifically designed not to remove the magnetic material. Support for this addition to claim 1 can be found on page 12, lines 3-17 of the specification. Because Iijima teaches using an ion mill to remove the magnetic material,

thereby creating a recess in the magnetic material, not only does Ijiima not teach the invention recited in claim 1, it actually teaches away from the invention.

Therefore, the Applicant sincerely believes that claim 1 as amended is patentable over the prior art. Since the remaining claims 2-10 and 12-18 all depend from allowable claim 1 these claims are also allowable over the prior art. A notice of allowance is, therefore, respectfully requested. For payment of any fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account 50-2587 (Order No.HSJ920040008US1).

Respectfully submitted,

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